

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

JOHN LAWRENCE,)	
)	
<i>Plaintiff,</i>)	
v.)	No. 4:11-cv-52
)	<i>Mattice/Lee</i>
SHERIFF MARK LOGAN, JAIL)	
ADMINISTRATOR KAY SOLOMON,)	
DETECTIVE MIKE RAINEY,)	
)	
<i>Defendants.</i>)	

MEMORANDUM

John Lawrence ("Lawrence"), a *pro se* prisoner, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 (Court File No. 2) and a motion to proceed *in forma pauperis* (Court File No. 1). Lawrence has now submitted a motion entitled "Motion To (illegible word) Defendants" (Court File No. 3). In this motion, Lawrence requests that his lawsuit "be dismissed on the grounds that the original conditions have been corrected and no longer exist [sic] and therefore, the original suit is frivolous [sic] and bares no merit." (Court File No. 3). Thus, it appears Plaintiff is filing a notice of dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Lawrence's *in forma pauperis* application indicates his inmate trust fund has a negative balance of \$14.22. Because he has a negative balance and his motion to dismiss will be granted, the Court will **GRANT** his motion to proceed *in forma pauperis* (Court File No. 1).

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides for voluntary dismissal by a plaintiff upon filing a notice of dismissal at any time prior to service by the adverse party of an answer or of a motion for summary judgment. In the instant case the defendants have not been served. Thus, the filing of the motion to dismiss this action is timely. For the foregoing reasons, the motion to dismiss will be **GRANTED** (Court File No. 3). See Rule 41(a)(1). Accordingly, this action will be **DISMISSED WITHOUT PREJUDICE**. The Clerk will be **DIRECTED** to send a copy of this order to the parties and to close this file.

An appropriate judgment will enter.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE